

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:) Case No. 22-22293-CMB
Gabriel S. Fontana,)
Debtor,) Chapter 11
)
JTS Capital 3, LLC,) Adversary Case No. 23-02010-CMB
Plaintiff,)
vs.) Response Due Date: May 8, 2023
) Hearing Date: May 23, 2023 @ 1:30 PM
Pittsburgh Development Group, LLC,) Related Document No. 26, 30, 31, 33
Defendant.) Document No.

**RESPONSE TO DEFENDANT PITTSBURGH DEVELOPMENT GROUP'S MOTION
TO COMPEL**

AND NOW, comes the Debtor, Gabriel S. Fontana, by and through his counsel of record, Calaiaro Valencik and Donald R. Calaiaro, files this Response to the Motion to Compel filed by Pittsburgh Development Group, LLC, and avers the following in support:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted that there was discovery propounded in the state court case.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. The Consent Order signed by Judge Klein is a legal document that set deadlines. The document speaks for itself.

11. Denied as stated; Fontana has experienced severe medical issues requiring hospitalization and cancer treatments. His medical issues delayed his ability to respond to the discovery.

12. It is admitted that Gabriel Fontana filed for a Chapter 11 bankruptcy on November 18, 2022. This stayed further prosecution of the state court case under 11 U.S.C. §362 and the deadlines were stayed.

13. It is admitted that the state court action pending in the Allegheny County Court of Common Pleas was removed to the Bankruptcy Court of the Western District of Pennsylvania by the Plaintiff because it enabled all parties to deal with the multiple facets of this dispute.

14. It is admitted that responses to the discovery requests served by Pittsburgh Development Group directed to the Debtor were not submitted as of the date of the Pittsburgh Development Group's Motion to Compel. The Debtor served its responses to Pittsburgh Development Group's requests on May 8, 2023. A Certificate of Service was filed showing service of the responses. See Doc. No. 33. The Debtor's production included tax returns, proof of payment of real estate taxes, the Operating Agreement for Pittsburgh Development Group, the Sales Agreement for the purchase of 3160 Leechburg Road, and various other documentation.

15. The Debtor intended to respond fully to Pittsburgh Development Group's discovery requests prior to any scheduled deposition. The Debtor served its responses to Pittsburgh Development Group's discovery requests on May 8, 2023.

16. A deposition of the Debtor was scheduled for March 24, 2023. The deposition did not occur; Pittsburgh Development Group wanted the discovery responses

prior to the deposition. The Debtor served its responses to the discovery requests on May 8, 2023. A Notice of Service was filed showing service of the responses. See Doc. No. 33.

17. The Debtor intends to fully respond to the discovery requests of Pittsburgh Development Group prior to any scheduled deposition. The Debtor served its responses to the discovery requests on May 8, 2023. A Certificate of Service was filed showing service of the responses. See Doc. No. 33.

18. The Debtor has worked on remedying the outstanding discovery requests sent by Pittsburgh Development Group. The other allegations are denied as legal conclusions. The Bankruptcy Court limited the scope of the discovery to issues pertaining to the opening of the judgement against Pittsburgh Development Group.

19. Denied; the discovery order was limited to matters involving the petition to open the default judgment by the Bankruptcy Court.

20. It is admitted that the parties have discussed the responses to discovery. The Debtor has always promised that he would comply with the discovery responses, but his ability to respond has been impeded by his health.

21. The Debtor served its responses to the discovery requests on May 8, 2023. A Certificate of Service was filed showing service of the responses. See Doc. No. 33. The Debtor can be made available for deposition. It is denied that the Pittsburgh Development Group has been prejudiced and the statements of prejudice are formal conclusions that lack specificity.

22. The order submitted by the Pittsburgh Development Group is not appropriate.

WHEREFORE, the Debtor, Gabriel Fontana, respectfully requests this Court deny Pittsburgh Development Group's request for sanctions.

Respectfully Submitted,

Dated: May 8, 2023

BY: /s/ Donald R. Calaiaro
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